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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/038,584	01/08/2002	Junko Takahashi	P 284144 OI67597N-US-DIV	5648

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EXAMINER

SHAFFER, RICKY D

ART UNIT

PAPER NUMBER

2872

DATE MAILED: 12/30/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/038,584

Applicant(s)

TAKAHASHI ET AL

Examiner

R. D. SHAFER

Group Art Unit

2872

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTHS MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- ☒ Responsive to communication(s) filed on 10/10/02
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-51 is/are pending in the application.
- Of the above claim(s) 1-11, 15-17, 19, 22-32 AND 35-51 is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 12-14, 18, 20 AND 21 is/are rejected.
- ☒ Claim(s) 33 AND 34 is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement

Application Papers

- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).

☒ All ☐ Some* ☐ None of the:

☐ Certified copies of the priority documents have been received.

☒ Certified copies of the priority documents have been received in Application No. 08/867,779

☐ Copies of the certified copies of the priority documents have been received

in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____

Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 3 ☐ Interview Summary, PTO-413
- ☒ Notice of Reference(s) Cited, PTO-892 ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948 ☐ Other _____

Office Action Summary

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1. Applicant's confirmation of the election of Species "h", depicted by Fig. 7, in Paper No. 7 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Applicant should note that the examiner erred in including claim 11 along with the elected species. Claim 11 is drawn to one of the other species, such as Fig. 4, Fig. 5(a), Fig. 5(b), Fig. 9(a), Fig. 10 or Fig. 17, due to the fact that the (first) surface closest to the observer is curved (includes power) which is not the case with elected species "h", which appears to illustrate that the (first) surface closest to the observer is flat (excludes power).

2. Claims 11, 15-17, 19, 22-26, and 38-51 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b) as being drawn to a non-elected species. Election was made **without** traverse in Paper No. 7.

3. Claim 18 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 18, line 3, the use of the language "formed from plane surfaces" is vague, indefinite and/or confusing. It is unclear to examiner what applicant is intending by the above mentioned language. Thus, the metes and bounds of the claim is unclear.

4. Claims 33 and 34 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to

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cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. The above mentioned claims are improper multiple dependent claims and have not been treated on the merits.

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 12, 18, 20 and 21 are rejected under 35 U.S.C. 102(e) as being anticipated by Togino et al ('025).

Togino et al discloses an image display apparatus comprising an image display device (6), a prism member (7) having a first surface (3), a second surface (4), a third surface (5) and a fourth surface (the unlabeled surface between element 3 and element 5) and a retaining member (50), Note Figures 5, 19, 20 and 45, wherein an external scene can inherently be observed through at

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least two surfaces, due to the fact that Togino et al discloses all of the structure recited by applicant.

7. Claims 12-14, 18, 20 and 21 are rejected under 35 U.S.C. 102(e) as being anticipated by Takahashi ('194).

Takahashi discloses an image display apparatus comprising an image display device (4), a prism member (3) having a first surface (11), a second surface (12), a third surface (13) and a fourth surface (14) and a retaining member (20), Note Figures 6-9 and 17(b), wherein an external scene can inherently be observed through at least two surfaces, due to the fact that Takahashi discloses all of the structure recited by applicant.

8. Claims 12-14, 18, 20 and 21 are rejected under 35 U.S.C. 102(e) as being anticipated by Togino ('823).

Togino discloses an image display apparatus comprising an image display device (6), a prism member (7) having a first surface (3), a second surface (4), a third surface (8) and a fourth surface (5) and a retaining member (103), Note Figures 2(a) and 14, wherein an external scene can inherently be observed through at least two surfaces, due to the fact that Togino discloses all of the structure recited by applicant.

9. Claims 12-14, 18, 20 and 21 are rejected under 35 U.S.C. 102(e) as being anticipated by Hayakawa et al ('656).

Hayakawa et al discloses an image display apparatus comprising an image display device (7), a prism member (6) having a first surface (3), a second surface (4), a third surface (8) and a

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fourth surface (5) and a retaining member (R), Note Figures 6(a) and 10, wherein an external scene can inherently be observed through at least two surfaces, due to the fact that Hayakawa et al discloses all of the structure recited by applicant.

10. Any inquiry concerning this communication should be directed to R.D. Shafer at telephone number (703) 308-4813.

RDS

December 28, 2002

Railyn Shafer
RAILYN D. SHAFER
ATTORNEY
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